

REMARKS

A. BACKGROUND

The present Amendment is in response to the Office Action mailed August 3, 2010. Claims 26, 27, 29-32, 35-37, and 39-46 were pending at the time of the Office Action and were rejected in view of cited art. By this response, claims 26, 35, and 41 are amended and claims 47-50 are added to further clarify, more clearly define, and/or broaden the claimed inventions to expedite receiving a notice of allowance. For example, claims 26, 35, and 41 have been amended to recite that the balloon is spaced apart distally from the bending section. New claims 47-50 recite various further limitations that are not found in the cited art. The amendments to the claims are supported in the application at least by Figure 1 and paragraphs [0028] and [0030] of the specification as originally filed. Claims 26, 27, 29-32, 35-37, and 39-50 are now pending in view of the above amendments, with claims 26, 35, and 41 being independent.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, are consistent with the Examiner's understanding. Furthermore, although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

B. REJECTIONS BASED ON CITED ART

The Office Action rejects claims 26, 29, 30, 41-43, and 45 under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication No. 2002/0177800 (*Bagoisan*). Claims 27, 32, 35-37, 39, 40, 44, and 46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bagoisan*. Claim 31 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bagoisan* in view of

U.S. Publication No. 2004/0127934 (*Gilson*). Applicant respectfully traverses these rejections and submits that the rejected claims are neither anticipated nor made obvious by *Bagoisan* or *Gilson*, either singly or in combination. Of the rejected claims, claims 26, 35, and 41 are independent claims.

Bagoisan discloses aspiration catheters and corresponding methods of use. See Title. For example, as shown in Figure 2A, which was cited in the Office Action, *Bagoisan* discloses a catheter 14 having a balloon 12 disposed on the distal end thereof. A catheter shaft 44 extends proximally from balloon 12 to a proximal end 47, which can be coupled with a valve 24 to inflate the balloon. See paragraph 0072. A number of spiral cuts 60 are formed in catheter shaft 44 where catheter shaft 44 exits balloon 12. As discussed in paragraph [0069] of *Bagoisan*, the "balloon inflation is provided through the cuts 60 in the tubular body 44." As such, spiral cuts 60 extend along catheter shaft 44 into balloon 12, as shown in Figure 2B, to create a fluid connection into balloon 12. This is required so that balloon 12 can be inflated. A sleeve 62 is used to cover the spiral cuts that are positioned on the portion of catheter shaft 44 that is outside of balloon 12. Applicant notes that if spiral cuts 60 did not extend all the way into balloon 12, there would be no fluid connection into the balloon and no inflation of the balloon could occur. As a result, *Bagoisan* would be unfit for its intended purpose.

Gilson was merely cited for allegedly teaching a catheter covering that uses adhesive to bond to the catheter.

In light of the foregoing, Applicant respectfully submits that *Bagoisan* does not disclose, suggest, or otherwise reasonably support a catheter having a catheter shaft that includes a bending section with spiral cuts and "a balloon secured to the distal end of the catheter shaft so as to be spaced apart distally from the bending section." as recited in amended independent claims 26, 35 and 41. Applicant further submits that it would not have been obvious to modify *Bagoisan* to include the above limitation as this would cause *Bagoisan* to be unfit for its intended purpose, as discussed above.

Accordingly, for at least the reasons noted above, Applicant respectfully submits that independent claims 26, 35, and 41 and the claims depending therefrom¹ are not anticipated by

¹ Emphasis herein of the differences between the independent claims and the cited art are equally applicable to the dependent claims 27, 29-32, 36, 37, and 39, 40, 42-46 but this does not mean, on the other hand, that these are necessarily the *only* differences between the claimed invention and the cited art of record. Applicant thus does not acquiesce in any asserted rejections of the dependent claims 27, 29-32, 36, 37, and 39, 40, 42-46.

nor made obvious over *Bagaoisan* alone or in combination with the other cited references, and thus reconsideration and withdrawal of the rejections is respectfully requested.

C. NEW CLAIMS 47-50

As new claims 47-50 depend from claim 26, Applicant respectfully submits that new claims 47-50 are allowable for at least the same reasons as discussed above regarding claim 26. In addition, Applicant submits that many, if not all, of the new claims are independently distinguishable over the cited references. For example, as noted above, in *Bagaoisan*, the spiral cuts 60 are formed in catheter shaft 44 where catheter shaft 44 exits balloon 12. As such, the portion of the catheter shaft of *Bagaoisan* that has the spiral cuts is the same as the portion of the shaft adjacent and proximal to the balloon. Because these portions of the catheter shaft are really the same portion, the flexibility of the portions is the same. As a result, *Bagaoisan* does not disclose or suggest "the portion of the catheter shaft that is adjacent to the balloon and has lesser flexibility than the portion of the catheter shaft at the bending section is proximal to the balloon," as recited in new claim 48, or "the bending section has a flexibility greater than the flexibility of the portion of the catheter shaft adjacent and distal to the bending section," as recited in new claim 49. Furthermore, because sleeve 62 is used to cover the spiral cuts as catheter shaft 44 exits balloon 12, *Bagaoisan* does not disclose or suggest "the fluid impermeable covering extends distally toward but not to the balloon," as recited in new claim 50.

D. CONCLUSION

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 3rd day of November, 2010.

Respectfully submitted,

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